



## CLIFFORD OTTE

WISCONSIN STATE REPRESENTATIVE  
27TH ASSEMBLY DISTRICT

November 10, 1997

To: The Members  
Assembly Committee on Consumer Affairs

From: Representative Clifford Otte, Chair *C.O.*

### MEMO

On November 7, 1997, the following clearinghouse rule was referred to the Assembly Committee on Consumer Affairs:

Clearinghouse Rule 97-101, relating to the employment of a personal assistants by real estate salespersons and broker-employees.

The deadline for committee action on this rule is **December 5, 1997**. Please find herewith a copy of the rule. If you are interested in requesting a hearing and/or submitting comments, please do by **November 20, 1997**.

*Assembly*

## **Committee Report**

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The committee on **Consumer Affairs**, reports and recommends:

**Clearinghouse Rule 97-101**

Relating to the employment of personal assistants by real estate salespersons and broker-employees.

Submitted by the Department of Regulation and Licensing.

December 5, 1997 - NO ACTION TAKEN



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Representative Clifford Otte  
Chair



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**STATE OF WISCONSIN  
DEPARTMENT OF REGULATION AND LICENSING**

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**IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE  
PROCEEDINGS BEFORE THE : DEPARTMENT OF REGULATION  
DEPARTMENT OF REGULATION : AND LICENSING ADOPTING RULES  
AND LICENSING : (CLEARINGHOUSE RULE 97-110)**

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TO: Ben Brancel  
Speaker of the Assembly  
Room 211 West, State Capitol  
Madison, Wisconsin 53702

PLEASE TAKE NOTICE that the DEPARTMENT OF REGULATION AND LICENSING is submitting in final draft form proposed rules relating to the regulation of certified and licensed appraisers.

If you have any questions concerning the final draft form or desire additional information, please contact Pamela Haack at 266-0495.

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State of Wisconsin \ DEPARTMENT OF REGULATION & LICENSING

Tommy G. Thompson  
Governor

Marlene A. Cummings  
Secretary

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# Administrative Rules in Final Draft Form

## Department of Regulation and Licensing

### Rule: Chapters RL 80 to 87

### Relating to: Certified and Licensed Appraisers

### Clearinghouse Rule: No. 97-110

Regulatory Boards

Accounting; Architects, Landscape Architects, Professional Geologists, Professional Engineers, Designers and Land Surveyors; Auctioneer; Barbering and Cosmetology; Chiropractic; Dentistry; Dietitians; Funeral Directors; Hearing and Speech; Medical; Nursing; Nursing Home Administrator; Optometry; Pharmacy; Physical Therapists; Psychology; Real Estate; Real Estate Appraisers; Social Workers, Marriage and Family Therapists and Professional Counselors; and Veterinary.

Committed to Equal Opportunity in Employment and Licensing

**STATE OF WISCONSIN  
DEPARTMENT OF REGULATION AND LICENSING**

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**IN THE MATTER OF RULE-MAKING : REPORT TO THE LEGISLATURE  
PROCEEDINGS BEFORE THE : ON CLEARINGHOUSE RULE 97-110  
DEPARTMENT OF REGULATION : (s. 227.19 (3), Stats.)  
AND LICENSING :**

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**I. THE PROPOSED RULE:**

The proposed rule, including the analysis and text, is attached.

**II. REFERENCE TO APPLICABLE FORMS:**

No new or revised forms are required by these rules.

**III. FISCAL ESTIMATES:**

These rules will have no significant impact upon state or local units of government.

**IV. STATEMENT EXPLAINING NEED:**

In this proposed rule-making order the Department of Regulation and Licensing amends, renumbers, repeals and recreates numerous provisions contained in chs. RL 80 to 87, and Appendix I, relating to the regulation of certified and licensed appraisers. Significant changes to the current rules are as follows:

Section RL 80.03 is revised to create definitions for "accredited college or university" and "non-complex 1-to-4 family residential property appraisal." In addition, the definition of "appraisal experience" is being revised to include a reference to condemnation appraisals and real estate consulting assignments and to omit references to real estate counseling assignments and appraisal course instruction.

Section RL 81.01 (3) is being amended to change the number of hours of education instruction which must be completed in order to obtain an appraiser credential, from 75 to 90 hours for licensed appraisers, and from 165 to 180 hours for certified general appraisers.

Section RL 83.01 is amended to reflect that applicants seeking certified residential appraiser credentials must report at least 2,500 hours of appraisal experience obtained over a period of not less than 24 months, and individuals seeking certified general appraiser credentials must report at least 3,000 hours of appraisal experience obtained over a period of not less than 30 months. Under the current rules, individuals seeking

residential and general appraiser certifications are required to report 2,000 hours of experience acquired in any 2 calendar years.

Section RL 85.01 (3) is being repealed. That provision states that, at the time of every 4th renewal, each applicant shall submit proof of attendance at and completion of the educational course and examination described in s. 458.06 (2) (d), Stats. The course described under s. 458.06 (2) (d), Stats., consists of 15 hours of instruction in the professional standards and code of ethics applicable to appraisers. The department proposes to repeal s. RL 85.01 (3), and place the education requirement under s. RL 85.01 (2), instead. Section RL 85.01 (1) is being amended to state that 4 of the 20 hours of continuing education which applicants must complete in each biennial renewal period shall include instruction in the professional standards and code of ethics applicable to appraisers. This will allow applicants to complete the coursework on an ongoing basis rather than in conjunction with an 8 year renewal cycle.

Chapter RL 87, Appendix I, is being amended to reflect revisions made by the Appraisal Standards Board of the Appraisal Foundation to the Uniform Standards of Professional Appraisal Practice ("USPAP"). These amendments, which reflect revisions contained in the 1997 edition of USPAP, include:

- (1) Revisions to the Conduct section of the Ethics Provision which clarify the appraiser's obligation to refrain from using or relying upon unsupported conclusions relating to characteristics of individuals or groups in developing and reporting appraisals.
- (2) Revisions to the Definitions section, which include a revised definition of "Client" and a new definition for "Intended Use" and "Intended User."
- (3) Revisions to Standards Rule 1-3 (a), which replace the term "neighborhood" with "market area" and, in order to avoid confusion, delete language in the Comment section similar to that adopted in the Conduct section of the Ethics Provision and described in paragraph (1) above, and
- (4) Adoption of the Statement on Appraisal Standards No. 9, Identification of the Client's "Intended Use" in developing and reporting Appraisal, Consulting or Review Assignment opinions and conclusions.

#### **V. NOTICE OF PUBLIC HEARING:**

A public hearing was held on September 24, 1997. There were no appearances at the public hearing nor were any written comments received.

#### **VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:**

All of the recommendations suggested in the Clearinghouse Report have been accepted in whole.

**VII. FINAL REGULATORY FLEXIBILITY ANALYSIS:**

These proposed rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1) (a), Stats.



STATE OF WISCONSIN  
DEPARTMENT OF REGULATION AND LICENSING

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IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE  
PROCEEDINGS BEFORE THE : DEPARTMENT OF REGULATION AND  
DEPARTMENT OF REGULATION : LICENSING ADOPTING RULES  
AND LICENSING : (CLEARINGHOUSE RULE 97-110)

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PROPOSED ORDER

An order of the Department of Regulation and Licensing to *repeal* RL 80.03 (17) and 85.01 (3); to *renumber* RL 80.03 (1) and (1a); to *amend* RL 80.02, 80.03 (3), (13), (15) (intro.), (a) and (b), 81.01 (intro.) and (3), 81.03 (1) (c), (2) (intro.), (a), (b) and (c), 81.04 (3), 82.02 (2) (intro.), (a), (b) and (c), 82.04 (1) (intro.), (a), (b) and (c), 83.01 (1) and (3) (b), 84.01 (6) (intro.), (a), (b), (c), (7) (a) and (9), 84.02 (2), (3) (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p) and (q), 84.03 (1), (2) (intro.), (3) (a), (b), (c) 1., 2., 3., 4. a., b., c., (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p) and (q), 84.04 (1), (2), (3) (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o) and (p), 85.01 (1), (2) and (5), 85.02 (8) (intro.), (a), (b), (c) and (9) (a), 86.01 (2), 87.02 (2) (intro.), (a) and (b), ch. RL 87, Appendix I, Uniform Standards of Professional Appraisal Practice, Definition of Client, Standards Rule 1-3 (a), Origin and History of USPAP and Table of Contents; to *repeal and recreate* ch. RL 87, Appendix I, Conduct Section of the Ethics Provision; and to *create* RL 80.03 (1) and (10a), 83.01 (1a), (3) (d), Note after 83.01 (4) (c), 84.02 (3) (r), 84.04 (3) (r) and 86.01 (2a), ch. RL 87, Appendix I, Definitions of Intended Use and Intended User and Statement on Appraisal Standards No. 9 (SMT-9), relating to the regulation of certified and licensed appraisers.

Analysis prepared by the Department of Regulation and Licensing.

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ANALYSIS

Statutes authorizing promulgation: ss. 227.11 (2), 458.03 (1) (b) and (e), 458.03 (2) (b) and 458.085, Stats.

Statutes interpreted: ss. 458.06 (3) (b) and (c), 458.06 (4) (c), 458.08 (3) (c), 458.13 and 458.24, Stats.

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Section RL 80.03 is revised to create definitions for "accredited college or university" and "non-complex 1-to-4 family residential property appraisal." In addition, the definition of "appraisal experience" is being revised to include a reference to condemnation appraisals and

real estate consulting assignments and to omit references to real estate counseling assignments and appraisal course instruction.

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(4) Adoption of the Statement on Appraisal Standards No. 9, Identification of the Client's "Intended Use" in developing and reporting Appraisal, Consulting or Review Assignment opinions and conclusions.

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## TEXT OF RULE

SECTION 1. RL 80.02 is amended to read:

RL 80.02 INTENT. The intent of the department in adopting chs. RL 80 to 87 is to establish minimum standards for professional appraisal practice for certified and licensed appraisers which are consistent with the uniform standards of professional appraisal practice promulgated by the appraisal standards board of the appraisal foundation. It is further intended that these rules shall establish standards of competency such that persons certified or licensed as appraisers are qualified to perform appraisals for federally related transactions under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"), 12 USC 3331 et seq., ~~Title XI and United States Code.~~

SECTION 2. RL 80.03 (1) and (1a) are renumbered RL 80.03 (1a) and (1b).

SECTION 3. RL 80.03 (1) is created to read:

RL 80.03 (1) "Accredited college or university" means an institution which is accredited by a regional or national accrediting agency recognized by the U.S. department of education.

SECTION 4. RL 80.03 (3) is amended to read:

RL 80.03 (3) "Appraiser experience" means experience obtained by the performance of fee and staff appraisals, ad valorem tax appraisals, technical review appraisals, condemnation appraisals, appraisal analyses, highest and best use studies, real estate ~~counseling consulting~~ assignments or real estate broker's market analyses in accordance with the uniform Standards standards of professional appraisal practice, as in effect at the time the experience was obtained; ~~or by the teaching of appraisal courses.~~

SECTION 5. RL 80.03 (10a) is created to read:

RL 80.03 (10a) "Non-complex 1-to-4 family residential property appraisal" means an appraisal of 1-to-4 family residential property in which the property to be appraised, the form of ownership, or market conditions are typical.

SECTION 6. RL 80.03 (13), (15) (intro.), (a) and (b) are amended to read:

RL 80.03 (13) "Real estate ~~counseling consulting~~" means the performance of ~~real estate~~ consulting services in accordance with Standards 4 and 5 of the uniform standards of appraisal practice as specified in Appendix I.

(15) (intro.) "Transaction value" means one of the following:

(a) For loans or other extensions of credit, the amount of the loan or extension of credit;

(b) For sales, leases, purchases, and investments in or exchanges of real property, the market value of the real property interest involved;

SECTION 7. RL 80.03 (17) is repealed.

SECTION 8. RL 81.01 (intro.) and (3) are amended to read:

RL 81.01 APPLICATIONS FOR CERTIFIED AND LICENSED APPRAISERS. (intro.) An applicant for certification or licensure shall apply on a form provided by the department. Any applicant who files an application for certification or licensure, but does not comply with a request for information related to the application or meet all requirements within one year from the date of filing, shall file, subsequent to the denial of the application, a new application and fee if certification or licensure is sought at a later date. A qualified applicant with a disability shall be provided with reasonable accommodations. The application shall include:

(3) A transcript or proof of ~~75~~ 90, 120 or ~~165~~ 180 hours of instruction as provided for in ss. RL 84.02, 84.03 and 84.04.

SECTION 9. RL 81.03 (1) (c), (2) (intro.), (a), (b) and (c) are amended to read:

RL 81.03 (1) (c) The appraiser completes the application and pays the fee specified in s. 440.05 ~~(6)~~ (2), Stats.

(2) (intro.) An appraiser seeking a temporary registration shall apply on a form provided by the department. An applicant who fails to comply with a request for information related to the application or to meet all requirements for registration within one year from the date of filing, shall submit a new application and fee if registration is sought at a later date. The application shall include all of the following:

(a) The fee specified in s. 440.05 ~~(6)~~ (2), Stats.;

(b) Written verification of current appraiser licensure or certification submitted by an authorized state official for each state wherein the applicant holds an appraiser license or certification;

(c) A description of the appraisal assignment in this state including, but not limited to, information pertaining to the type of property being appraised, the location and approximate size of the property, the anticipated completion date and the name and address of the lender requesting the appraisal; ~~and~~.

SECTION 10. RL 81.04 (3) is amended to read:

RL 81.04 (3) LICENSED APPRAISER. A licensed appraiser may conduct appraisals of complex 1-to-4 family residential property having a transaction value of not more than \$250,000; non-complex 1-to-4 family residential real estate, property having a transaction value of not more than one million dollars, and commercial real estate having a transaction value of not more than \$250,000.

Note: Under federal law, a financial institution is responsible for making the final determination of whether an appraisal is complex. A financial institution may presume that appraisals of 1-to-4 family residential properties are not complex, unless the institution has readily available information that a given appraisal will be complex. If during the course of the appraisal a licensed appraiser identifies factors that would result in the property, form of ownership, or market conditions being considered atypical, the financial institution must either ask the licensed appraiser to complete the appraisal and have a certified appraiser approve and cosign the appraisal, or engage a certified appraiser to complete the appraisal. 12 CRF 225.63.

SECTION 11. RL 82.02 (2) (intro.), (a), (b) and (c) are amended to read:

RL 82.02 (2) (intro.) An applicant shall not cheat or attempt to cheat on an examination by any means, including, but not limited to, any one of the following:

- (a) Giving or receiving answers to examination questions;
  - (b) Attempting to obtain, receive or communicate to other persons examination questions;
  - (c) Using unauthorized materials during any portion of the examination;
- or,

SECTION 12. RL 82.04 (1) (intro.), (a), (b) and (c) are amended to read:

RL 82.04 (1) (intro.) To claim an error on the Wisconsin statutes and rules examination, an applicant shall file a written request with the department within 30 days of the date the applicant reviews the examination. The request shall include all of the following:

- (a) The applicant's name and address;
- (b) The type of certificate for which the applicant applied;
- (c) A description of the mistakes the applicant believes were made in the examination content, procedures, or scoring, including the specific questions or procedures claimed to be in error; ~~and,~~

SECTION 13. RL 83.01 (1) is amended to read:

RL 83.01 (1) ~~Applicants for~~ An applicant seeking certification as a residential or general appraiser shall submit evidence satisfactory to the department that the applicant has at least ~~2 years of experience as defined in s. RL 80.03 (17)~~ 3,000 hours of appraisal experience obtained over a period of not less than 30 months.

SECTION 14. RL 83.01 (1a) is created to read:

RL 83.01 (1a) An applicant seeking certification as a residential appraiser shall submit evidence satisfactory to the department that the applicant has at least 2,500 hours of appraisal experience obtained over a period of not less than 24 months.

SECTION 15. RL 83.01 (3) (b) is amended to read:

RL 83.01 (3) (b) Include one or more of the following types of appraisal experience: fee and staff appraisal, ad valorem tax appraisal, technical review appraisal, condemnation appraisal, appraisal analysis, highest and best use study, feasibility analysis, real estate ~~counseling,~~ consulting or real estate broker's market analysis ~~or appraisal course instruction.~~

SECTION 16. RL 83.01 (3) (d) is created to read:

RL 83.01 (3) (d) Include, in the case of licensed appraisers and certified residential appraisers, no more than 25% commercial appraisal experience.

SECTION 17. A Note following RL 83.01 (4) (c) is created to read:

Note: Application forms required for certification or licensure may be obtained from the Department of Regulation and Licensing, Bureau of Business and Design Professions, 1400 East Washington Avenue, P.O. Box 8935, Madison, WI 53708.

SECTION 18. RL 84.01 (6) (intro.), (a), (b), (c), (7) (a) and (9) are amended to read:

RL 84.01 (6) (intro.) Credit may be allowed for a correspondence course, video or remote television presentation which satisfies all of the following requirements:

(a) The course is presented by an accredited college or university which offers correspondence programs in other disciplines;

(b) An individual successfully completes a written examination administered by a proctor approved by the course provider;

(c) An individual is awarded a minimum of one semester credit upon successful completion of the course; ~~and,~~

(7) (a) Be an instructor of appraisal courses who teaches or has taught appraisal courses at an accredited college or university ~~or a vocational, technical and adult education school, or.~~

(9) The licensed and certified residential appraiser programs of study are expected to provide all appraisers with a foundation of knowledge. The courses which satisfy the requirements for appraiser licensure and residential appraiser certification may be acceptable towards satisfying the course work requirement for general appraiser certification.

SECTION 19. RL 84.02 (2) and (3) (a) to (q) are amended to read:

RL 84.02 (2) Any approved program of study for certified residential appraisers shall include not less than 15 hours of instruction in professional standards and code of ethics applicable to appraisers and not less than 20 hours of instruction in commercial income approach as described in sub. (3) (r).

- (3) (a) Appraisal standards and ethics;.
- (b) Appraisal statistical concepts;.
- (c) Cost approach;.
- (d) Economic principles;.
- (e) Highest and best use analysis;.
- (f) Influences on real estate value;.
- (g) Legal considerations in appraisal;.
- (h) Property description;.
- (i) Real estate financing;.
- (j) Real estate markets and analysis;.
- (k) Reconciliation of values;.
- (l) Residential income approach;.
- (m) Sales comparison approach;.
- (n) Site value;.
- (o) Types of value;.

(p) Valuation of partial interests; ~~and,~~

SECTION 20. RL 84.02 (3) (r) is created to read:

RL 84.02 (3) (r) Commercial income approach:

1. Mathematics of finance, including compounding, discounting, and mortgage loans.
2. Property income and expense estimating, including lease analysis and analysis of operating statements.
3. Methods of calculating property reversions.
4. Methods of converting income to value:
  - a. Direct capitalization.
  - b. Residual methods, such as land, building, property, and equity.
  - c. Mortgage equity methods, such as simple mortgage equity and Ellwood/Akerson method.
  - d. Discounted cash flow methods and internal rate of return.

SECTION 21. RL 84.03 (1), (2) (intro.), (3) (a), (b), (c) 1., 2., 3., 4. a., b., c. and (d) to (q) are amended to read:

RL 84.03 (1) A program of study for certified general appraisers shall include at least ~~165~~ 180 hours of instruction.

(2) (intro.) Any approved program of study for certified general appraisers shall include within the ~~165~~ 180 hours all of the following:

- (3) (a) Appraisal standards and ethics;.
- (b) Appraisal statistical concepts;.
- (c) 1. Mathematics of finance, including compounding, discounting, and mortgage loans;.



2. Property income and expense estimating, including lease analysis and analysis of operating statements;.

3. Methods of calculating property reversions;.

4. a. Direct capitalization;.

b. Residual methods, such as land, building, property, and equity;.

c. Mortgage equity methods, such as simple mortgage equity and Ellwood/Akerson method; and.

(d) Cost approach;.

(e) Economic principles;.

(f) Highest and best use analysis;.

(g) Influences on real estate value;.

(h) Legal considerations in appraisal;.

(i) Property description;.

(j) Real estate financing;.

(k) Real estate markets and analysis;.

(l) Reconciliation of values;.

(m) Residential income approach;.

(n) Sales comparison approach;.

(o) Site value;.

(p) Types of value;.

(q) Valuation of partial interests, including leasehold and leased fee valuation; and.

SECTION 22. RL 84.04 (1), (2) and (3) (a) to (p) are amended to read:

RL 84.04 (1) An applicant seeking licensure as an appraiser shall submit evidence satisfactory to the department that the applicant has completed a program of study for licensed appraisers of at least ~~75~~ 90 hours of instruction.

(2) Any approved program of study for licensed appraisers shall include within the ~~75~~ 90 hours, not less than 15 hours of instruction in professional standards and code of ethics applicable to appraisers and not less than 20 hours of instruction in commercial income approach as described in sub. (3) (r).

- (3) (a) Appraisal standards and ethics;<sub>1</sub>
- (b) Appraisal statistical concepts;<sub>1</sub>
  - (c) Cost approach;<sub>1</sub>
  - (d) Economic principles;<sub>1</sub>
  - (e) Highest and best use analysis;<sub>1</sub>
  - (f) Influences on real estate value;<sub>1</sub>
  - (g) Legal considerations in appraisal;<sub>1</sub>
  - (h) Property description;<sub>1</sub>
  - (i) Real estate financing;<sub>1</sub>
  - (j) Real estate markets and analysis;<sub>1</sub>
  - (k) Reconciliation of values;<sub>1</sub>
  - (l) Residential income approach;<sub>1</sub>
  - (m) Sales comparison approach;<sub>1</sub>
  - (n) Site value;<sub>1</sub>
  - (o) Types of value;<sub>1</sub>
  - (p) Valuation of partial interests;~~and~~<sub>1</sub>

SECTION 23. RL 84.04 (3) (r) is created to read:

RL 84.04 (3) (r) Commercial income approach:

1. Mathematics of finance, including compounding, discounting, and mortgage loans.
2. Property income and expense estimating, including lease analysis and analysis of operating statements.
3. Methods of calculating property reversions.
4. Methods of converting income to value:
  - a. Direct capitalization.
  - b. Residual methods, such as land, building, property, and equity.
  - c. Mortgage equity methods, such as simple mortgage equity and Ellwood/Akerson method.
  - d. Discounted cash flow methods and internal rate of return.

SECTION 24. RL 85.01 (1) and (2) are amended to read:

RL 85.01 (1) Every certified and licensed appraiser shall complete at least 20 hours of continuing education in each biennial renewal period ~~as required in s. 458.13 (1), Stats.~~ at least 4 of which shall include instruction in the professional standards and code of ethics applicable to appraisers.

Note: For the January 1, 1998 renewal period, credential holders will be required to submit proof of completion of 20 hours of continuing education. Commencing with the January 1, 2000 renewal period, an applicant must submit proof of completion of the 4 hours of instruction in the professional standards and code of ethics applicable to appraisers and each biennial renewal period thereafter. In February, 1994, the Appraiser Qualifications Board of the Appraisal Foundation adopted a requirement that increases the continuing education hours for certified and licensed appraisers from 20 to 28, effective January 1, 1998. This change will not affect the January 1, 1998 reporting requirements in Wisconsin.

(2) Continuing education hours may be applied only to satisfy the continuing education requirements for the biennial renewal period in which the hours were acquired and may not be carried over to the next biennial renewal period.

SECTION 25. RL 85.01 (3) is repealed.

SECTION 26. RL 85.01 (5) is amended to read:

RL 85.01 (5) Credit may be allowed for appraiser ~~education course~~ instruction provided by a course instructor in connection with an approved continuing education program.

SECTION 27. RL 85.02 (8) (intro.), (a), (b), (c) and (9) (a) are amended to read:

RL 85.02 (8) (intro.) A correspondence course, video or remote television presentation which satisfies all of the following requirements may be approved:

(a) The course is presented by an accredited college or university which offers correspondence programs in other disciplines;

(b) An individual successfully completes a written examination administered at a location by a proctor approved by the course provider;

(c) An individual is awarded a minimum of one semester credit upon successful completion of the course; ~~and,~~

(9) (a) Be an instructor of appraisal courses who teaches or has taught appraisal courses at an accredited ~~institution of higher education~~ college or university.

SECTION 28. RL 86.01 (2) is amended to read:

RL 86.01 (2) All appraisals shall conform to the uniform standards of professional appraisal practice set forth in Appendix I. ~~No certified or licensed appraiser may sign any written appraisal report which was not prepared by the appraiser or under his or her supervision.~~

SECTION 29. RL 86.01 (2a) is created to read:

RL 86.01 (2a) No certified or licensed appraiser may sign any written appraisal report which was not prepared by the appraiser or under his or her supervision.

SECTION 30. RL 87.02 (2) (intro.), (a) and (b) are amended to read:

RL 87.02 (2) (intro.) If applying 5 years or more after the renewal date, submitting proof of completion of 20 hours of continuing education as required under s. RL 85.01, paying the renewal fees specified in s. 440.08 (2) (a) 11. and 12. and (3), Stats., and submitting proof of one or more of the following, as determined by the department to ensure protection of the public health, safety and welfare:

(a) Successful completion of educational coursework ~~required by the department to ensure protection of the public health, safety and welfare; and,~~

(b) Successful completion of ~~an the examination required by the department to ensure protection of the public health, safety and welfare on Wisconsin statutes and rules or the national appraiser certification or licensure examination.~~

SECTION 31. Chapter RL 87, Appendix I, Uniform Standards of Professional Appraisal Practice is amended to read:

## CHAPTER RL 87

### APPENDIX I

#### UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE

The Uniform Standards of Professional Appraisal Practice ("USPAP") Copyright (c) 1996 1998 by The Appraisal Foundation, are reproduced with permission of The Appraisal Foundation.. All rights reserved. No part of the USPAP may be reproduced without prior consent of The Appraisal Foundation.

Copies of the USPAP (including advisory opinions) are available from the Appraisal Foundation, 1029 Vermont Avenue, N.W., Suite 900, Washington, D.C. 20005-3517, (202) 347-7722.

SECTION 32. Chapter RL 87, Appendix I, Conduct Section of the Ethics Provision is repealed and recreated to read:

#### ETHICS PROVISION

Because of the fiduciary responsibilities inherent in professional appraisal practice, the appraiser must observe the highest standards of professional ethics. This ETHICS PROVISION is divided into four sections: Conduct, Management, Confidentiality, and Record Keeping.

Comment: This provision emphasizes the personal obligations and responsibilities of the individual appraiser. However, it should also be emphasized that groups and organizations engaged in appraisal practice share the same ethical obligations.

#### Conduct

An appraiser must perform ethically and competently in accordance with these standards and not engage in conduct that is unlawful, unethical, or improper. An appraiser who could reasonably be perceived to act as a disinterested third party in rendering an unbiased appraisal, review, or consulting service must perform assignments with impartiality, objectivity, and independence and without accommodation of personal interests.

Comment: An appraiser is required to avoid any action that could be considered misleading or fraudulent. In particular, it is unethical for an appraiser to use or

communicate a misleading or fraudulent report or to knowingly permit an employee or other person to communicate a misleading or fraudulent report.

An appraiser must not use or rely on unsupported conclusions relating to characteristics such as race, color, religion, national origin, gender, marital status, familial status, age, receipt of public assistance income, handicap, or an unsupported conclusion that homogeneity of such characteristics is necessary to maximize value.

The development of an appraisal, review, or consulting service based on a hypothetical condition is unethical unless 1) the use of the hypothesis is clearly disclosed; 2) the assumption of the hypothetical condition is clearly required for legal purposes, for purposes of reasonable analysis, or for purposes of comparison and would not be misleading; and 3) the report clearly describes the rationale for this assumption, the nature of the hypothetical condition, and its effect on the result of the appraisal, review, or consulting service.

An individual appraiser employed by a group or organization which conducts itself in a manner that does not conform to these standards should take steps that are appropriate under the circumstances to ensure compliance with the standards.

SECTION 33. Chapter RL 87, Appendix I, Definitions Section, Client is amended to read:

CLIENT: any party for whom an appraiser performs a service the party or parties who engages an appraiser (by employment or contract) in a specific assignment.

Comment: The "Client" identified by the appraiser in an appraisal, consulting, or review report (or in the assignment work file) is the party or parties with whom the appraiser has an appraiser-client relationship in the related assignment.

SECTION 34. Chapter RL 87, Appendix I, Definitions Section, "Intended Use" and "Intended User" are created to read:

**INTENDED USE:** the use or uses of an appraiser's reported appraisal, consulting, or review assignment opinions and conclusions, as identified by the appraiser based on communication with the client at the time of the assignment.

**INTENDED USER:** the client and any other party as identified, by name or type, as users of the appraisal, consulting, or review report, by the appraiser based on communication with the client at the time of the assignment.

SECTION 35. Chapter RL 87, Appendix I, Standards Rule 1-3 (a) is amended to read:

Standards Rule 1-3

In developing a real property appraisal, an appraiser must observe the following specific appraisal guidelines:

- (a) consider the effect on use and value of the following factors: existing land use regulations, reasonably probable modifications of such land use regulations, economic demand, the physical adaptability of the real estate, ~~neighborhood~~ market area trends, and the highest and best use of the real estate;

Comment: This guideline sets forth a list of factors that affect use and value. ~~In considering neighborhood trends, an appraiser must avoid stereotyped or biased assumptions relating to race, age, color, religion, gender, or national origin or an assumption that racial, ethnic, or religious homogeneity is necessary to maximize value in a neighborhood. Further, an An~~ appraiser must avoid making an unsupported assumption or premise about ~~neighborhood decline~~ market area trends, effective age, and remaining life. In considering highest and best use, an appraiser should develop the concept to the extent that is required for a proper solution of the appraisal problem being considered.

SECTION 36. Chapter RL 87, USPAP, Origin and History of USPAP is amended to read:

Origin and History of USPAP

These standards are based on the original Uniform Standards of Professional Appraisal Practice developed in 1986-87 by the Ad Hoc Committee on Uniform Standards and copyrighted in 1987 by The Appraisal Foundation. Prior to the establishment of the ASB in 1989, USPAP had been adopted by major appraisal organizations in North America and became recognized as the generally accepted standards of appraisal practice.

At its organizational meeting on January 30, 1989, the ASB unanimously approved and adopted the original USPAP as the initial appraisal standards promulgated by the ASB. USPAP may be altered, amended, interpreted, supplemented, or repealed by the ASB after exposure to the appraisal profession, users of appraisal services and the public in accordance with established rules of procedure.

Effective Date of Original Uniform Standards:	April 27, 1987
Amendments by the Appraisal Standards Board to Date:	
Preamble	April 20, 1990
Ethics Provision	March 21, 1995 <u>25, 1996</u>
Competency Provision	April 20, 1990
Departure Provision	March 22, 1994
Jurisdictional Exception and Supplemental Standards sections	July 19, 1994
Definitions section	July 18, 1995 <u>August 27, 1996</u>

Standard 1	<del>April 20, 1990</del> <u>June 10, 1996</u>
Standard 2	March 22, 1994
Standard 3	November 2, 1994
Standards 4 and 5	June 5, 1990
Standard 6	September 10, 1991
Standards 7 and 8	March 3, 1992
Standards 9 and 10	September 16, 1992

SECTION 37. Chapter RL 87, Appendix I, Table of Contents is amended to read:

## TABLE OF CONTENTS

### UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE

#### INTRODUCTION

Preamble.....	.....
Ethics Provision.....	.....
Competency Provision.....	.....
Departure Provision.....	.....
Jurisdictional Exception.....	.....
Supplemental Standards.....	.....
Definitions.....	.....

#### STANDARDS AND STANDARDS RULES

STANDARD 1	Real Property Appraisal.....
STANDARD 2	Real Property Appraisal, Reporting.....
STANDARD 3	Review Appraisal and Reporting.....
STANDARD 4	Real Estate/Real Property Consulting.....
STANDARD 5	Real Estate/Real Property Consulting, Reporting.....
STANDARD 6	Mass Appraisal and Reporting.....
STANDARD 7	Personal Property Appraisal.....
STANDARD 8	Personal Property Appraisal, Reporting.....
STANDARD 9	Business Appraisal.....
STANDARD 10	Business Appraisal, Reporting.....



## STATEMENTS ON APPRAISAL STANDARDS

A paper copy of an electronically transmitted report is not required.

- SMT-1 Standards Rule 3-1(f) (Review Appraisal).....
- SMT-3 Retrospective Value Estimates.....
- SMT-4 Prospective Value Estimates.....
- SMT-5 Confidentiality Rule of the Ethics Provision.....
- SMT-6 Reasonable Exposure Time in Market Value Estimates.....
- SMT-7 Permitted Departure from Specific Guidelines for Real Property Appraisals...
- SMT-8 Identification of the Client's "Intended Use" in Developing and Reporting Appraisal, Consulting, or Review Assignment Opinions and Conclusions

## STATEMENTS ON APPRAISAL STANDARDS

Statements on Appraisal Standards are authorized by the by-laws of The Appraisal Foundation and are specifically for the purpose of clarification, interpretation, explanation or elaboration of the Uniform Standards of Professional Appraisal Practice (USPAP). Statements have the full weight of a Standards Rule and can only be adopted by the Appraisal Standards Board after exposure and comment.

To date the ASB has adopted eight Statements:

- |        |   |                        |
|--------|---|------------------------|
| SMT-1  | Standards Rule 3-1 (f) (Review Appraisal)   | July 8, 1991           |
| SMT -2 | Discounted Cash Flow Analysis   | July 8, 1991           |
| SMT-3  | Retrospective Value Estimates   | July 8, 1991           |
| SMT-4  | Prospective Value Estimates   | July 8, 1991           |
| SMT-5  | Confidentiality Rule of the Ethics Provision  | September 10, 1991     |
| SMT-6  | Reasonable Exposure Time in Market Value Estimates  | September 16, 1992     |
| SMT-7  | Permitted Departure from Specific Guidelines for Real Property Appraisals   | March 22, 1994         |
| SMT-8  | Electronic Transmission of Reports  | July 18, 1995          |
| SMT-9  | <u>Identification of the Client's "Intended Use" in Developing and Reporting Appraisal, Consulting, or Review Assignment Opinions and Conclusions</u> | <u>August 27, 1996</u> |

## INDEX TO STATEMENTS

- SMT-1 Standards Rule 3-1(f) (Review Appraisal).....
- SMT-2 Discounted Cash Flow Analysis.....
- SMT-3 Retrospective Value Estimates.....
- SMT-4 Prospective Value Estimates.....
- SMT-5 Confidentiality Rule of the Ethics Provision.....
- SMT-6 Reasonable Exposure Time in Market Value Estimates.....

SMT-7	Permitted Departure from Specific Guidelines for Real Property Appraisals..
SMT-8	Electronic Transmission of Reports.....
<u>SMT-9</u>	<u>Identification of the Client's "Intended Use" in Developing and Reporting Appraisal, Consulting, or Review Assignment Opinions and Conclusions</u>

SECTION 38. Chapter RL 87, Appendix I, Statement on Appraisal Standards No. 9 is created to read:

STATEMENT ON APPRAISAL STANDARDS NO. 9 (SMT-9)

SUBJECT: Identification of the Client's "Intended Use" in developing and reporting Appraisal, Consulting, or Review Assignment opinions and conclusions.

THE ISSUE:

An appraiser must identify and consider the client's intended use of the appraiser's reported opinions and conclusions in order to properly define the problem under study and to understand his or her development and reporting responsibilities in an appraisal, consulting, or review assignment.

An appraiser must state the client's intended use of the appraisal opinions and conclusions in an appraisal report.

What kind of information must an appraiser identify and consider regarding the client's intended use of an appraisal, consulting, or review report in the course of accepting and completing an assignment, and which of that information must an appraiser include in the report?

THE STATEMENT:

General

While identification of the client's intended use of an appraisal, consulting, or review report is also a business concern, this activity is an essential step to be taken by an appraiser in performing professional appraisal, consulting, or review services.

This Statement addresses an appraiser's obligations related to the client's intended use when performing professional appraisal practices under USPAP.

STANDARDS 1, 6, 7, and 9 require an appraiser to "identify", "consider", or "define" the "purpose and intended use" of the appraisal in the course of developing his or her opinions or conclusions in the assignment.

STANDARDS 2, 6, 8 and 10 require an appraiser to "state the purpose and intended use" of the appraisal in the report. In the context of a written real property appraisal report, the Comment to

Standards Rules 2-2 (a) and (b), (iii), (iv) and (v) states, "These three requirements call for clear disclosure to the reader of the report the "who, why, what and when" surrounding the appraisal. The Comment to Standards Rule 2-2 (c) (iii) states "The intended use of the appraisal must be consistent with the use restriction on the report....." Similar language appears in other USPAP reporting Standards.

STANDARD 3 requires an appraiser to certify that, among other matters, his or her compensation is not contingent on the use of the review report. STANDARD 5 requires an appraiser to certify whether his or her compensation is contingent on the use of the consulting report. An appraiser performing a review or consulting assignment must be aware of the client's intended use of the appraiser's reported opinions and conclusions in order to reasonably provide the required certification.

The intended use of an appraiser's reported appraisal, consulting, or review assignment conclusions and opinions is established by the client. The client's intended use may encompass requirements of one or more other intended users. An appraiser cannot reasonably identify the client's intended use without having identified the client and having established a clear understanding of the client's requirements by communicating with the client or the client's agent. An appraiser identifies the client's intended use by communicating with the client before accepting an assignment.

Although an appraiser bound by the Uniform Standards of Professional Appraisal Practice (USPAP) must identify and consider the client's intended use of the appraiser's reported appraisal, consulting, or review opinions and conclusions, an appraiser must not allow a client's intended use or the requirements of any user of the report to affect the appraiser's independence and objectivity in performing an assignment. An appraiser must not allow a client's objectives to cause the analysis or report to be biased.

#### Identification of the Client and Intended Users in an Assignment

In order to properly define the problem under study and to understand his or her responsibilities in an assignment, an appraiser must identify the client and, to the extent practical, other intended users as part of the process of identifying the client's intended use of the appraisal, consulting, or review report. This could be accomplished by communication with the client prior to accepting the assignment.

An appraiser should use care when identifying the client to ensure a clear understanding and to avoid violations of the Confidentiality section of the ETHICS PROVISION. In this context, the client may be identified as a person or entity, or an agent of an intended user. In those rare instances where the client wishes to remain anonymous, the appraiser must still document the identity of the client in the workfile, but may omit the client's identity in the appraisal, consulting, or review report.

The term "Client" is defined in USPAP as:

The party or parties who engages an appraiser (by employment or contract) in a specific assignment.

The term "Intended Use" is defined in USPAP as:

The use or uses of an appraiser's reported appraisal, consulting, or review assignment opinions and conclusions, as identified by the appraiser based on communication with the client at the time of the assignment.

The term "Intended User" is defined in USPAP as:

The client and any party as identified, by name or type, as users of the appraisal, consulting, or review report, by the appraiser based on communication with the client at the time of the assignment.

The client and any other party as identified, by name or type, as users of the appraisal, consulting, or review report, by the appraiser based on communication with the client at the time of the assignment.

An appraiser's obligations to the client are established in the course of considering and accepting an assignment. Once an assignment is accepted, an appraiser is obligated to complete the assignment as agreed and in compliance with USPAP. However, if an appraiser becomes aware of a change in the client's intended use of the report, the appraiser must consider whether the extent of the appraisal, consultation, or review process and type of report initially agreed upon are still appropriate and, if they are not, the appraiser must communicate with the client to establish an appropriate basis upon which to proceed.

If the appraiser is contacted regarding an assignment or report by a party other than the appraiser's client, before responding the appraiser must review his or her obligations to that client. An appraiser may need to review the Confidentiality section of the ETHICS PROVISION and Statement on Appraisal Standards No. 5 (SMT-5) for requirements, and Advisory Opinion No. 10 (AO-10) for guidance.

An appraiser's obligations to other intended users may impose additional development and reporting requirements in the assignment. It is essential that an appraiser establish with the client a clear and mutual understanding of the needs of all known intended users prior to accepting an assignment. An appraiser's obligation to intended users other than the client is limited to addressing their requirements as identified by the client at the time the appraiser accepts the assignment.

Neither the client nor the appraiser is obligated to identify an intended user by name. If identification by name is not appropriate or practical, an appraiser's client and the appraiser may identify an intended user by type.

A party receiving a report copy from the client does not, as a consequence, become a party to the appraiser-client relationship.

Parties who receive a copy of an appraisal, consulting, or review report as a consequence of disclosure requirements applicable to an appraiser's client do not become intended users of the report unless the client specifically identifies them at the time of the assignment.

#### Disclosure of Client and Intended User(s) in an Appraisal Report

Except when specifically requested not to do so as part of the agreement with the client, an appraiser must disclose the identity of the client and, to the extent practical, any other known intended users in an appraisal report. The purpose of this reporting requirement is to (1) ensure that the client and any other known intended users can recognize their relationship to the assignment and report, and (2) to ensure that unintended users will not be misled by notifying them that they are neither the client nor an intended user. For example, a statement similar to the following may be appropriate:

“This report is intended for use only by (identify the client) and (identify any other known intended users by name or type). Use of this report by others is not intended by the appraiser.”

If the client's identity is omitted from an appraisal report, the appraiser must (1) identify the client and should identify any known intended users in the work file, and (2) provide a notice in the appraisal report that (i) the identity of the client has been omitted in accordance with the client's request and (ii) that the report is intended for use only by the client and any other intended users identified by the client at the time the assignment was accepted.

#### Disclosure of Client and Intended User(s) in a Consulting or Review Report

A statement identifying the intended use of a consulting or review report is not a review or consulting report content requirement under STANDARDS 3 or 5. However, an appraiser may use the same type of statement as illustrated for an appraisal report in this Statement on Appraisal Standards in his or her consulting or review reports to avoid misleading a user and to convey the client's intended use of the assignment results.

#### Identification of the Client's Intended Use in an Appraisal, Consulting, or Review Assignment

Identification of the client's intended use is one of the essential steps in defining the appraisal, consulting or review problem. Identification of the client's intended use helps the appraiser and the client make two important decisions about the assignment:

- the appropriate extent of the appraisal, consulting, or review development process to employ, and
- the level of detail to provide in the appraisal, consulting, or review report.

An appraiser needs to be aware, to the fullest degree practical, of the client's report use intentions so as to reasonably ensure that the appraisal, consulting or review development process and report address the client's stated needs. When the client intends that a report be used by others, the needs of those additional users may affect the extent of the appraisal, consulting or review process as well as the content of a report.

#### Disclosure of the Client's Intended Use in a Report

An appraiser can avoid misleading parties in possession of an appraisal, consulting, or review report by clearly identifying the client's intended use in the report and stating that other uses are not intended. For example, a statement similar to the following may be appropriate:

"This report is intended only for use in (describe the use). This report is not intended for any other use."

The use description provided in the statement must be specific to the assignment.

#### Conclusions

- An appraiser must identify the client and, to the extent practical, other intended users as part of the process of identifying the client's intended use of an appraisal, consulting, or review report, by communication with the client prior to accepting the assignment.
- An appraiser should use care when identifying the client to ensure a clear understanding and to avoid violations of the Confidentiality section of the ETHICS PROVISION.
- The appraiser's obligations to the client are established in the course of considering and accepting an assignment.
- The appraiser's obligation to intended users other than the client is limited to addressing their requirements as identified by the client at the time the appraiser accepts the assignment.
- Identification of the client's intended use of the report is one of the essential steps in defining the appraisal, consulting or review problem.
- An appraiser identifies the client's intended use of an appraisal, consulting, or review report by communicating with the client before accepting an assignment.
- Appraisers can avoid misleading parties in possession of a report by clearly identifying the client's intended use in the report and stating that other uses are not intended by the appraiser.
- Except when specifically requested not to do so as part of the agreement with the client, an appraiser must disclose the identity of the client and, to the extent practical, any other known intended users of an appraisal report in the report to (1) ensure that all intended users recognize

their relationship to the assignment and report and to (2) ensure unintended users will not be misled by notifying them that they are neither the client nor an intended user.

- If the client's identity is omitted from an appraisal report, the appraiser must (1) document the identity of the client and should identify any other known intended users in the work file, and (2) provide a notice in the appraiser report that (i) the identity of the client has been omitted in accordance with the client's request and (ii) that the report is intended for use only by the client and any other intended users.

- An appraiser may use the same type of statement as illustrated for an appraisal report in this Statement on Appraisal Standards in his or her consulting or review reports.

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(END OF TEXT OF RULE)

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Except as noted herein, these rules will become effective the first day of the month commencing after the date of publication as provided in s. 227.22 (2) (intro.), Stats. The provisions contained in Sections 8, 13, 14, 20, 21, 22 and 23 will first apply to credential applications filed with the department on or after the effective date of these rules. The provisions contained in Sections 16 and 19 relating to experience and education requirements will first apply to credential applications filed with the department on or after July 1, 1998. The provisions contained in Section 24 will first apply to credential applications submitted for the January 1, 2000 renewal date.

Dated \_\_\_\_\_

Agency \_\_\_\_\_

Patricia C. McCormack, Deputy Secretary  
Department of Regulation and Licensing

#### FISCAL EFFECT

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.
2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.
3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

FINAL REGULATORY FLEXIBILITY ANALYSIS

These proposed rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

g:\rules\rea1.doc  
10/28/97



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**CLEARINGHOUSE REPORT TO AGENCY**

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[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

**CLEARINGHOUSE RULE 97-110**

AN ORDER to repeal RL 80.03 (17) and 85.01 (3); to renumber RL 80.03 (1) and (1a); to amend RL 80.02, 80.03 (3), (13) and (15) (intro.), (a) and (b), 81.01 (intro.) and (3), 81.03 (1) (c) and (2) (intro.), (a), (b) and (c), 81.04 (3), 82.02 (2) (intro.), (a), (b) and (c), 82.04 (1) (intro.), (a), (b) and (c), 83.01 (1) and (3) (b), 84.01 (6) (intro.), (a), (b) and (c) and (9), 84.02 (2) and (3) (a) to (q), 84.03 (1), (2) (intro.) and (3) (a), (b), (c) 1., 2., 3. and 4. a., b. and c., (d) to (q), 84.04 (1), (2) and (3) (a) to (p), 85.01 (1), (2), (5) and (6), 85.02 (8) (intro.), (a), (b) and (c) and (9) (a), 86.01 (2), 87.01 (1), 87.02 (1) and (2) (intro.), (a) and (b) and chapter RL 87, Appendix I, Conduct Section of the Ethics Provision, Definition of Client and Standards Rule 1-3 (a); and to create RL 80.03 (1) and (10a), 83.01 (1a) and (3) (d) and (4) (c) Note, 84.02 (3) (r), 84.04 (3) (r) and 86.01 (2a) and chapter RL 87, Appendix I, Definitions of Intended Use and Intended User, relating to the regulation of certified and licensed appraisers.

Submitted by **DEPARTMENT OF REGULATION AND LICENSING**

08-15-97 RECEIVED BY LEGISLATIVE COUNCIL.

09-15-97 REPORT SENT TO AGENCY.

RNS:DD:kjf;wu

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached      YES       NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached      YES       NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached      YES       NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS  
[s. 227.15 (2) (e)]

Comment Attached      YES       NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached      YES       NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL  
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached      YES       NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

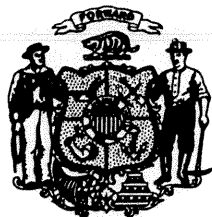
Comment Attached      YES       NO

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## CLEARINGHOUSE RULE 97-110

### Comments

**[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]**

#### 1. Statutory Authority

Section RL 85.01 is amended to increase the minimum required hours of continuing education from 20 to 28. While s. 458.13 (1), Stats., can be read to support the increase, by rule, of the minimum required hours of continuing education, the statute can also be read as a specific requirement, requiring legislation in order to change the minimum required hours. In the latter regard, reference to "at least" could simply be a recognition that some appraisers, in the course of a two-year period, will accumulate more than 20 hours of continuing education, even if not required. In addition, there is no express statutory authority to increase the minimum required hours by rule, and it would have been a simple matter to so provide.

#### 2. Form, Style and Placement in Administrative Code

a. The treatment clause of SECTION 19 can be simplified by simply referring to s. RL 84.02 (3) (a) to (q). See also the treatment clauses of SECTIONS 21 and 22.

b. In s. RL 84.03 (2) (intro.), "all of the following" should precede either the colon or "within."

c. In SECTION 32, the subheading "Conduct" should be underscored. See the current format of the Uniform Standards of Professional Appraisal Practice (USPAP), as set forth in Appendix 1 of ch. RL 87. In the second paragraph of that SECTION, "Comment," followed by a colon, should precede the paragraph. The third paragraph of the SECTION, which is new, is not

underscored. The comment following the fourth paragraph of the SECTION, which is underscored, is in current rules.

- d. In SECTION 33, the comment should be a separate paragraph.
- e. In SECTION 35, "Rule" should follow "Standards."
- f. In SECTION 36, the subheadings should be underscored.
- g. The effective date clause should be specific as to when the various provisions of the rule take effect. [See s. 1.02 (4), Manual.]

**5. Clarity, Grammar, Punctuation and Use of Plain Language**

- a. In s. RL 80.03 (10a), is the use of the disjunctive "or" intended or should "and" be used?
- b. In s. RL 82.02 (2) (intro.), an underscored comma should precede "any."
- c. In s. RL 83.01 (1) and (1a), is it clear what "obtained continuously" means?
- d. In s. RL 85.01 (1), should "at least" be inserted before "4"?
- e. SECTION 25 repeals s. RL 85.01 (3). The department's analysis, however, indicates that s. RL 85.01 (3) is amended "to include, in part, the text of the language contained in s. 458.06 (2) (d) [Stats.]" Clarification is in order.
- f. In s. RL 85.02 (9) (a), it appears that "accredited" does not modify "vocational, technical and adult education school." Is that intended?
- g. On page 18, second full paragraph, it appears that "not" should follow "requested" so that the clause reads: "Except when specifically requested not to do so as part of the agreement with the client . . . ."
- h. On page 19, first full paragraph, "off" should be "of." It is suggested that the entire text of the revised appendix be proofed against the USPAP.